REYNA GABRIELA GUTIERREZ-ALVAREZ
NAME
05068-298
PRISON NUMBER

FCI VICTORVILLE MEDIUM II
PLACE OF CONFINEMENT

PO BOX 5100 ADELANTO CA 92301
ADDRESS

FILED
2008 MAR -4 AM 8:56
CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY Rm DEPUTY

United States District Court
Southern District Of California

REYNA GABRIELA GUTIERREZ-ALVAREZ,
(FULL NAME OF PETITIONER)

Petitioner

v.

Warden Tereser A. Banks,
(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED PERSON HAVING CUSTODY OF PETITIONER, E.G. PAROLE OFFICER)

Respondent

and

The Attorney General of the State of California, Additional Respondent.

'08 CV 0402 LAB CAB

Civil No.
(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2241

1. Type of challenge (CHECK ONE):
   - ☐ Parole
   - ☐ Probation
   - ☐ Loss of good-time credits
   - ☐ Prison disciplinary hearing
   - ☒ Other (specify): TIMING OF HALFWAY HOUSE COMMITMENT (18 USC SEC 3624(c)

2. Have you previously filed any petitions, applications, or motions with respect to the execution of your sentence in any court, state or federal?
   ☐ Yes ☒ No

3. If your answer to 2 was "Yes," give the following information:

   (a)(1) Name of court ____________________

   (2) Nature of proceeding

   (3) Grounds raised

   (4) Did you receive an evidentiary hearing on your petition, application or motion?
   ☐ Yes ☐ No

   (5) Result ____________________

   (6) Date of result ____________________

   (b) As to any second petition, application or motion give the same information:

   (1) Name of court ____________________

   (2) Nature of proceeding

   (3) Grounds raised

(4) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☐ No

(5) Result ______________________________

(6) Date of result ______________________________

(c) Did you appeal, to the highest state court having jurisdiction, the result of action taken on any petition, application or motion?
(1) First petition, etc. ☐ Yes ☐ No
(2) Second petition, etc. ☐ Yes ☐ No

(d) If you did ***not*** appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

4. **State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground.** If necessary, you may attach pages stating additional grounds and facts supporting same.
CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. Moreover, if you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.
You should *raise in this petition **all** available grounds* on which you base your allegations that you are being held in custody unlawfully.

A. Ground one:

PURSUANT TO 18 USC SECTION 2624(c), I BELEIVE I AM ENTITLED TO RELEASE TO A HALFWAY HOUSE AFTER SERVING 6 MONTHS OF MY TERM.

Supporting FACTS (state *briefly* without citing cases or law)

i HAVE BEEN TOLD I WILL NOT BE RELEASED TO A HALWAY HOUSE UNTIL 12/28/08. I WAS SENTENCED TO 12 MONTHS ON 1/7/08. I WILL LOSE MY JOB (AND MY HOME AS A RESULT) IF I CANNOT GO BACK TO WORK SOONER

B. Ground two:

Supporting FACTS (state *briefly* without citing cases or law):

C. Ground three:

Supporting FACTS (state *briefly* without citing cases or law):

D. Ground four:

Supporting FACTS (state *briefly* without citing cases or law):

5. If any of the grounds listed in 4A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not presented, and give your reasons for not presenting them:

6. Do you have any petition or appeal now pending in any court, either state or federal, as to the execution of sentence under attack?
   ☐ Yes ☒ No

7. Give the name and address, if known, of each attorney who represented you in the following stages of the execution of sentence attacked herein:

   (a) In any post-conviction proceeding ______________________

   (b) On appeal from any adverse ruling in a post-conviction proceeding ______________________

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

____
SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

02/25/08
(DATE)

Reyna Gutierrez
SIGNATURE OF PETITIONER

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

FILED

2008 MAR -4 AM 9:01

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY RMD DEPUTY

I (a) PLAINTIFFS

Reyna Gabriela Gutierrez-Alvarez

DEFENDANTS

Tereser A. Banks

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Bernardino

(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Reyna Gabriela Gutierrez-Alvarez
PO Box 5100
Adelanto, CA 92301
Reg# 05068-298

ATTORNEYS (IF KNOWN)

'08 CV 0402 LAB CAB

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT (For Diversity Cases Only)

	PT	DEF		PT	DEF
Citizen of This State	☐1	☐1	Incorporated or Principal Place of Business in This State	☐4	☐4
Citizen of Another State	☐2	☐2	Incorporated and Principal Place of Business in Another State	☐5	☐5
Citizen or Subject of a Foreign Country	☐3	☐3	Foreign Nation	☐6	☐6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 USC 2241

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment &Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153Recovery of Overpayment of Veterans Benefits
- ☐ 160 Stockholders Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectmant
- ☐ 240 Tort to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury- Medical Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/Accommodations
- ☐ 444 Welfare
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence Habeas Corpus
- ☐ 530 General
- ☐ 535 Death Penalty
- ☒ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prisoner Conditions

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC881
- ☐ 630 Liquor Laws
- ☐ 640 RR & Truck
- ☐ 650 Airline Regs
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt. Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (13958)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS - Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reappointment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities Exchange
- ☐ 875 Customer Challenge 12 USC
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State
- ☐ 890 Other Statutory Actions

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appelate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23 **DEMAND $** Check YES only if demanded in complaint: **JURY DEMAND:** ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE Docket Number

DATE March 4, 2008

~~SIGNATURE OF ATTORNEY OF RECORD~~

148307 3/4/08
$5.00

R.Mullen

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

148307 - SR

March 04, 2008
08:55:16

Habeas Corpus
USAO #.: 08CV0402 HABEAS
Judge..: LARRY A BURNS
Amount.: $5.00 CC

Total-> $5.00

FROM: GUTIERREZ-ALVAREZ V. BANKS
HABEAS